

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1083
(Judiciary Committee)
(At the request of the Labor Commissioner)

AN ACT to amend and reenact sections 14-02.4-21, 14-02.5-22, and 14-02.5-46 of the North Dakota Century Code, relating to confidential information obtained under the human rights and housing discrimination laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-21. Records exempt. A complaint ~~received by~~ filed with the department under this chapter is an open record. Information obtained during ~~any~~ an investigation conducted ~~by the department~~ under this chapter is exempt from section 44-04-18 before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter or before the administrative closure of a complaint by the department. The department may disclose to the complainant or the respondent, ~~or a representative of the complainant or the respondent,~~ information obtained during an investigation ~~if determined~~ deemed necessary by the department for securing an appropriate resolution of a complaint. The department may disclose ~~to federal officials~~ information obtained ~~under this chapter~~ during an investigation to a federal agency if necessary for the processing of complaints under an agreement with the agency. ~~The department may not disclose anything said or done as part of the informal negotiation or conciliation efforts relating to a complaint under this chapter except to the federal equal employment opportunity commission as needed for proper processing and closure.~~ Individually identifiable health information obtained during an investigation may not be disclosed by the department except to a federal agency if necessary for the processing of complaints under an agreement with the agency. Statements made or actions taken during conciliation efforts relating to a complaint under this chapter may not be disclosed by the department, except to a federal agency if necessary for the processing of complaints under an agreement with the agency, and may not be used as evidence in a subsequent proceeding under this chapter without the written consent of the parties to the conciliation. A conciliation agreement is an open record unless the complainant and respondent agree that it is not and the department determines that disclosure is not necessary to further the purposes of this chapter. Investigative working papers are exempt from section 44-04-18.

SECTION 2. AMENDMENT. Section 14-02.5-22 of the North Dakota Century Code is amended and reenacted as follows:

14-02.5-22. Conciliation.

- 4- The department shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the department, to the extent feasible, engage in conciliation with respect to the complaint. A conciliation agreement between a respondent and the complainant is subject to departmental approval. A conciliation agreement may provide for binding arbitration or another method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.
- 2- ~~A conciliation agreement is public information unless the complainant and respondent agree that it is not and the department determines that disclosure is not necessary to further the purposes of this chapter. Statements made or actions taken in the conciliation~~

~~may not be made public by the department or used as evidence in a subsequent proceeding under this chapter without the written consent of the parties to the conciliation.~~

SECTION 3. AMENDMENT. Section 14-02.5-46 of the North Dakota Century Code is amended and reenacted as follows:

14-02.5-46. Records exempt. A complaint filed with the department under section 14-02.5-18 is an open record. Information obtained during an investigation conducted by the department under this chapter is exempt from section 44-04-18 ~~prior to~~ before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter or before the administrative closure of a complaint by the department. The ~~commissioner~~ department may disclose to the complainant or the respondent, or representatives of the complainant or respondent, information obtained ~~under this section~~ during an investigation if deemed necessary by the ~~commissioner~~ department for securing an appropriate resolution of a complaint. The department may disclose information obtained during an investigation to a federal agency if necessary for the processing of complaints under an agreement with the agency. Individually identifiable health information obtained during an investigation may not be disclosed by the department except to a federal agency if necessary for the processing of complaints under an agreement with the agency. Statements made or actions taken during conciliation efforts relating to a complaint under this chapter may not be disclosed by the department, except to a federal agency if necessary for the processing of complaints under an agreement with the agency, and may not be used as evidence in a subsequent proceeding under this chapter without the written consent of the parties to the conciliation. A conciliation agreement is an open record unless the complainant and respondent agree that it is not and the department determines that disclosure is not necessary to further the purposes of this chapter. Investigative working papers are exempt from section 44-04-18.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1083.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State